BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
Theodore Edmund Staahl, M.D.	)	**Case No. 800-2016-020529**
Physician's and Surgeon's Certificate No. G 37452	)	
Respondent	)	

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 23, 2018.

IT IS SO ORDERED: July 24, 2018.

MEDICAL BOARD OF CALIFORNIA

Kristina D. Lawson, J.D., Chair
Panel B

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **THEODORE E. STAAHL, M.D.** 1329 Spanos Court, Ste. A-1 Modesto, CA 95355 **Physician's and Surgeon's Certificate No. G37452** Respondent.	Case No. 800-2016-020529 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Christine A. Rhee, Deputy Attorney General.

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2. Respondent Theodore Edmund Staahl, M.D. (Respondent) is represented in this proceeding by attorney Stephanie L. Roundy, Esq., whose address is: P.O. Box 7608, Stockton, CA 95267.

3. On or about July 19, 1978, the Board issued Physician's and Surgeon's Certificate No. G37452 to Theodore E. Staahl, M.D. (Respondent). Physician's and Surgeon's Certificate No. G37452 was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-020529, and will expire on December 31, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2016-020529 was filed before the Medical Board of California, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 17, 2017. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2016-020529 is attached as Exhibit A and is incorporated by reference herein.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-020529. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2016-020529.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board does not, in its discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied up on or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

11. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

12. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

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13. Respondent agrees that his Physician's and Surgeon's Certificate No. G37452 is subject to discipline, and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G37452 issued to Respondent Theodore E. Staahl, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision, Accusation, and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any

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medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If Respondent did not successfully complete the clinical competence assessment program, Respondent shall not resume the practice of medicine until a final decision has been rendered on the Accusation and/or a Petition to Revoke Probation. The cessation of practice shall not apply to the reduction of the probationary time period.

4. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the

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proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and

education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

5. PROHIBITED PRACTICE. During probation, Respondent is prohibited from treating melanoma patients until successfully completing the clinical competence assessment program. After the effective date of this Decision, all patients being treated by the Respondent shall be notified that the Respondent is prohibited from treating melanoma patients. Any new patients must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

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8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve

Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

13. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

15. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of

California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Stephanie L. Roundy, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 11/Dec 18

THEODORE E. STAAHL, M.D.
Respondent

I have read and fully discussed with Respondent Theodore E. Staahl, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12/6/18

STEPHANIE L. ROUNDY, ESQ.
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 6/25/18

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

CHRISTINE A. RHEE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-020529

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **THEODORE E. STAAHL, M.D.** 1329 Spanos Court Ste. A-1 Modesto, CA 95355 Physician's and Surgeon's Certificate No. G 37452, Respondent.	Case No. 800-2016-020529 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about July 19, 1978, the Medical Board issued Physician's and Surgeon's Certificate No. G37452, to Theodore E. Staahl, M.D. (Respondent). The Physician's and Surgeon's Certificate No. G37452, was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2017, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

5. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

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(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct which would have warranted the denial of a certificate.

(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

6. Section 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

[Bus. & Prof. Code § 2234(b)]

7. Respondent Theodore E. Staahl, M.D. is subject to disciplinary action under Code section 2234, subdivision (b), in that he was grossly negligent in the care and treatment of a patient. The circumstances are as follows:

8. In diagnosing cancer patients, the stage of a cancer describes how widespread it is. For melanoma, this includes its thickness in the skin, whether it has spread to nearby lymph nodes or any other organs, and certain other factors. The stage is based on the results of physical exams, biopsies, and any imaging tests or other tests that have been done. The staging is used to determine treatment. The standard of medical practice for patients with stage I to IIA disease is to follow-up with a history and physical examination every 3 months for the first year after diagnosis, every 6 months for the next 5 years and then annually. For patients with stage IIB or greater disease, chest radiography, computed tomography, or positron emission tomographic scans every 6 to 12 months may be considered. Routing imaging studies are no longer recommended after 5 years. Complete lymph node dissection is recommended for all patients with nodal metastasis found by sentinel lymph node biopsy.

9. Sentinel lymph node biopsy (SLNB)[1] is the standard of care for patients with intermediate-thickness melanomas (Breslow thickness, 1-4 mm) of any anatomic site; use of SLNB in this population provides accurate staging. SLNB represents the most important step in the workup for regional metastasis. At a minimum, SLNB should be discussed with patients having intermediate-thickness melanomas.

10. On or about October 28, 2013, Patient T.M.[2] had a biopsy performed by his family

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[1] A sentinel lymph node biopsy is a procedure in which the sentinel lymph node is identified, removed, and examined to determine whether cancer cells are present.

[2] Patient and physicians' names are abbreviated herein to protect patient confidentiality. Full names will be provided upon receipt of a properly executed and served Request for Discovery.

physician which revealed superficial spreading melanoma[3] that was 3.4mm thickness, Clark Level[4] IV[5], and had ulcerations. The pathology report stated that the "peripheral margin [was] free of invasive melanoma" but that "complete excision [is] required."

11. Patient T.M. was first seen by Respondent on or about November 4, 2013, for evaluation of a melanoma of the "neck/back area." Respondent noted that the "back shows sutures in place, the wound healing well. Incision measures about 8cm." Respondent did not perform a complete medical history. Likewise, he did not perform a physical examination with documentation of the regional loco lymph nodes. The only documented physical examination is a brief history of the surgical site. Respondent reviewed the pathology report and noted that "the usual recommendations are at least 2 cm margin around all edges of the melanoma with excision down into the subcutaneous tissue. The patient may have flap to repair the defect. This is discussed with him." There is no documentation of a discussion about a SLNB at any point in the consultation.

12. The pathology slides were sent to Dr. A.D. at UCSF for review. The Slide Consultation Report characterizes the initial biopsy as a superficial spreading melanoma with 3.4mm Breslow thickness, ulceration, peripheral margin involvement, deep margins clear by 5.5mm, high miotic index, perineural and vascular invasion absent, microsatellitosis absent, regression present and focal.

13. In a progress note dated December 3, 2013, Respondent states, "excise tumor upper back." In an accompanying operative report, Respondent documented "1.5cm margins were marked around the previous tumor site . . . a rhomboid flap was based laterally . . . the tumor was excised in a diamond-shaped pattern and specimens [were] sent to pathology. Rhomboid flap was then incised, undermined, and rotated in placed . . . closed in layers . . . he will be rechecked in 9-

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[3] Superficial spreading melanoma is the most common type of melanoma, a potentially serious skin cancer that arises from pigment cells.

[4] Clark's level is a staging system, used in conjunction with Breslow's depth, which describes the level of anatomical invasion of the melanoma in the skin. Cancer staging is the process of determining how much cancer is in the body and where it is located. Staging describes the severity of an individual's cancer based on the magnitude of the original (primary) tumor as well as on the extent cancer has spread in the body.

[5] Level IV refers to the stage at which the cancer has spread to the deep dermis.

10 days." A Dermatological Report dated on or about December 5, 2013, documented: "Skin, upper back excision: 1. Negative for residual melanoma or melanoma in situ. 2. Healing biopsy site, present at deep and peripheral margins."

14. On or about December 12, 2013, Respondent noted that the patient had "some drainage" and that the wound was slightly red. A "clean dry dressing" was applied and the patient was to return on "Monday." The sutures were removed on or about December 16, 2013. The wound was "well approximated" but "some scabs [were] still evident." He was told to keep the area covered for an additional week "to keep scabs protected." The patient returned on or about January 7, 2014, for a "recheck upper back" and was noted to be "well healed" with no issues. There is no documentation of a return visit or a follow-up appointment. Likewise, there is no documentation of planned surveillance or referral to a dermatologist for surveillance.

15. On or about May 15, 2014, Patient T.M.'s family physician made a referral note stating, "A.S.A.P. Appt. please" for evaluation and treatment of "2 nodular lesions." It states: "Had resection of melanoma [with] clear margins 12/13. Now [with] 2 nodular lesions adjacent to site of excision."

16. Respondent evaluated the patient on or about May 19, 2014. He noted: "the patient has 2 areas of wound scar thickening . . . Margins were free and he had a flap repair. There is 1 cm thickening in 2 areas. There is some pigment to this. I would favor some scar reaction here. However, I would recommend doing biopsies of both areas to make sure there is no recurring tumor of [sic] melanoma. We will get insurance authorization for this."

17. On or about June 5, 2014, Respondent performed an excisional biopsy of one of the back nodules. He noted: "The superior nodule was anesthetized with 1% Xylocaine with epinephrine 1: 100,000. This is then elliptically excised. The deep part has a very dark black pigmented color to it. Bleeding is controlled with ligature following which the skin is approximated with interrupted 3-0 nylon sutures. Specimen was sent to pathology. The patient will return in about a week for the report. We may need to refer the patient to melanoma clinic if this is a recurrence." A Dermatological Report dated June 12, 2014, states: "Skin, upper back, excision: Melanoma in dermis and subcutis with associated scar, present at margin."

18. On or about June 6, 2014, Respondent noted: "Recurrent tumor back-neck. Plan to refer to UCSF Melanoma Clinic." The patient returned on June 23, 2014, for "suture removal upper back." It was noted that he was "to see Dermatologist for eval. from insurance."

19. On or about June 26, 2014, the patient was evaluated by a dermatologist. Dr. M.M. documented: "I cannot be certain of the history of this lesion as we do not have the pathology reports. No matter, it appears that the lesion, as per the patient, was a melanoma that was excised prior. Given that this lesion has already been excised, I asked the patient to return to see Dr. Staahl to discuss what the next step should be in his care. If the lesion was incompletely excised, then it should be re-excised by his original surgeon who has all the specifics of the case. If the melanoma lesion is greater than 1 mm in Breslow depth, then the patient should consult for a sentinel lymph node biopsy. I informed the patient that I do not perform sentinel lymph node biopsies and that we typically refer such cases out to UCSF for sentinel lymph node biopsy. I informed the patient that this is a dangerous lesion and he needs to contact Dr. Staahl asap in order to come up with a plan to approach excision of this lesion and SLN Bx if necessary. If he is unable to reach or contact Dr. Staahl, then he understands to contact us again to obtain referral to UCSF melanoma clinic to move forward with his care."

20. The last interaction between Respondent and the patient occurred on July 3, 2014. In a progress note of that date, Respondent states: "Recommendation would be referral to a melanoma treatment center. He needs to have staging for lymph node and possible metastasis, and control of the local lesions. The patient is requesting Stanford University. I would concur. Another option is UCSF Melanoma Clinic. His family is in the Palo Alto area, so I would recommend referring him to The Melanoma Clinic Dermatology Service at Stanford."

21. Patient T.M. was seen at Stanford on or about July 23, 2014. In a progress note, Dr. S.S. states: "[Patient T.M.] is referred to the Stanford Pigmented Lesion and Melanoma Clinic for discussion and further treatment of the local melanoma recurrence, including wide local excision (WLE) and potential staging of the regional lymph nodes with the sentinel lymph node biopsy (SLNB)". Her physical examination documented: ". . . obvious recurrence of melanoma at the site of previous excision."

22. There is no documentation of a discussion between Respondent and the patient about a SLNB at any point in the consultation, surgery, or even during the initial follow-up. The only mention of the SLNB is after the recurrence was diagnosed.

23. Respondent was grossly negligent in his care and treatment of Patient T.M. by failing to document any follow-up surveillance plan for the patient.

24. Respondent was grossly negligent in his care and treatment of Patient T.M. by failing to perform and/or document a discussion regarding SLNB in a patient with a known melanoma with a Breslow depth of 3.4 mm and the presence of ulceration and high mitotic rate.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

[Bus. & Prof. Code § 2234(c)]

25. Respondent Theodore E. Staahl, M.D. is subject to disciplinary action under Code section 2234, subdivision (c), for his repeated acts of negligence in his care and treatment of a patient. The circumstances are as follows:

26. Complainant realleges paragraphs 7 through 24, and those paragraphs are incorporated by reference as if fully set forth herein.

27. The standard of medical practice in California is for a physician to maintain accurate and consistent patient records. In addition to the patient's condition, treatment, and explanations, it is important to also include in the medical record any consultation informing the patient of his or her condition and the intended procedures, risks, hazards, and alternative therapy. Similarly, surgical records should be comprehensive and promptly dictated or written, and patient instructions on follow-up care should be included.

28. Physicians have a duty to obtain the informed consent of patients before performing certain medical procedures. Key pieces of information that a physician must disclose include the condition being treated, nature and character of the proposed treatment or surgical procedure, anticipated results, recognized possible alternative forms of treatment, and recognized serious possible risks, complications, and anticipated benefits involved in the treatment or surgical

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procedure, as well as the recognized possible alternative forms of treatment, including non-treatment.

29. On or about June 5, 2014, Patient T.M. signed a consent form authorizing "excise tumor upper back with possible flap repair." It further states: "My signature below constitutes my acknowledgement to the following: 1. Dr. Staahl or his staff has adequately explained this procedure to me. I have all the information that I desire. 2. Alternative treatment, if any, have been adequately explained to me. 3. The risks of this procedure have been adequately explained to me. 4. I authorize and consent to the performance of this procedure. 5. I authorize the use of and medication deemed necessary by Dr. Staahl." There is a section that is not completed: "My understanding of the procedure in my own words is:" There is no documentation of any discussion of SLNB, the risks of the procedure or the alternative treatments. There is an accompanying consent form for the incisional biopsy listed as: "Excise lesions on back," with the same documentation of acknowledgement and incomplete section as the previous form.

30. Respondent was negligent in his care and treatment of Patient T.M. by failing to document a return visit or discharge of the patient following his appointment on January 7, 2014.

31. Respondent was negligent in the care and treatment of Patient T.M. in his performance of informed consent.

32. Respondent was negligent in his care and treatment of Patient T.M. by failing to document any follow-up surveillance plan for the patient.

33. Respondent was negligent in his care and treatment of Patient T.M. by failing to perform or even document a discussion regarding SLN biopsy in a patient with a known melanoma with a Breslow depth of 3.4 mm and the presence of ulceration and high mitotic rate.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and/or Accurate Medical Records)

[Bus. & Prof. Code § 2266]

34. Respondent Theodore E. Staahl, M.D. is subject to disciplinary action under Code section 2266 in that he failed to maintain adequate and accurate records related to the provision of medical services to Patient T.M. The circumstances are as follows:

35. Complainant re-alleges paragraphs 7 through 33, and those paragraphs are incorporated by reference as if fully set forth herein.

36. As more fully described above, Respondent failed to maintain adequate and accurate records regarding Patient T.M. by failing to document a return visit or discharge of the patient following his appointment on January 7, 2014, by failing to document a follow-up surveillance plan, and by failing to document a discussion regarding a SLN biopsy.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

[Bus. & Prof. Code § 2234(a)]

37. Respondent Theodore E. Staahl, M.D. is subject to disciplinary action under Code section 2234, subdivision (a), in that he engaged in unprofessional conduct. The circumstances are as follows:

38. Complainant re-alleges paragraphs 7 through 36, and those paragraphs are incorporated by reference as if fully set forth herein.

DISCIPLINE CONSIDERATIONS

39. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on October 10, 2014, in a prior disciplinary action entitled, "In the Matter of the First Amended Accusation Against Theodore E. Staahl, M.D.," (Case No. 02-2010-206730), the Board publicly reprimanded Respondent's certificate. The discipline was based on violations of Business and Professions Code sections 2234, failure to maintain adequate and accurate records; and 2234, subdivision (c), repeated negligent acts. That decision is now final and is incorporated by reference as if fully set forth.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate No G37452, issued to Theodore E. Staahl, M.D.;

2. Revoking, suspending or denying approval of Theodore E. Staahl, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Theodore E. Staahl, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: October 17, 2017

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant